

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-408 (BMC)
Plaintiff, :
-against- : United States Courthouse
WEI MEI GAO, : Brooklyn, New York
also known as "Vivian" :
and "Weimei," :
Defendant. : Thursday, November 5, 2020
: 12:30 p.m.
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TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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1 (In open court.)

2 (The interpreter previously sworn.)

3 THE COURTROOM DEPUTY: The United States versus
4 Wei Gao, Docket Number 18-CR-408.

5 Counsel, please state your appearances, starting
6 with the Government.

7 MR. CAMPOS: William Campos for the United States.
8 Good afternoon, Your Honor.

9 THE COURT: Good afternoon.

10 MS. MALKO: And Michelle Malko from Probation.
11 Good afternoon.

12 THE COURT: Good afternoon.

13 MS. VAN MALDEN: Good afternoon, Your Honor. On
14 behalf of Ms. Gao, Stacey Van Malden.

15 THE COURT: All right. Good afternoon.

16 Good afternoon, Ms. Gao.

17 DEFENDANT GAO: Good afternoon.

18 THE INTERPRETER: Also present is Stephanie Liu,
19 Chinese interpreter.

20 THE COURT: All right. We also have a Chinese
21 interpreter doing Chinese simultaneous translation who has
22 been previously sworn.

23 Okay. We are on for sentencing of both Ms. Gao,
24 and then we will following that up with her husband,
25 Mr. Xia.

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1 Do you want to proceed with Ms. Gao first? It
2 doesn't matter to me.

3 MR. CAMPOS: It's up to the Court. I have no
4 preference.

5 THE COURT: All right. I assume Defense Counsel
6 has talked and that is the way you want to do it?

7 MS. VAN MALDEN: Sure.

8 MR. CAMPOS: Sure.

9 MS. VAN MALDEN: It doesn't matter.

10 THE COURT: Okay. That's fine.

11 All right. Let me start by reviewing the
12 documents that I have read in preparing for this sentencing
13 proceeding.

14 Ms. Gao, if any of the documents I recite are not
15 familiar to you, if you have not gone over them with your
16 attorney let me know, and we will take a break so that you
17 can do that.

18 All right. I start with the presentence
19 investigation report of April 6th of this year. There is
20 one addendum to that report dated September 22nd -- I'm
21 sorry, there are two addenda. The second one is dated
22 October 20th, 2020.

23 I then have a sentencing memorandum from
24 Ms. Van Malden dated October 15th with letters attached to
25 it in Chinese and translated into English.

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1 I have the Government's sentencing memorandum of
2 October 23rd.

3 Now, I also have two other things: I have a
4 memorandum from Probation talking about the child-care issue
5 with regard to the couple, the defendant couple. And then I
6 believe I have shown Ms. Gao and her attorney the revised
7 probation sentencing recommendation in which Probation is
8 recommending one year and one day custody plus other terms,
9 of course. That is what I have read in preparing for this
10 sentencing.

11 Is there anything else that I should be looking
12 at?

13 MS. VAN MALDEN: No, Your Honor.

14 MR. CAMPOS: Not from the Government.

15 THE COURT: Okay. Ms. Gao, are you familiar with
16 those documents, and have you discussed them with your
17 lawyer?

18 DEFENDANT GAO: Yes.

19 THE COURT: All right. With regard to the facts
20 that will control sentencing with one exception that we will
21 be talking about in a little bit, I think there is no
22 dispute about the description of the offense or the defender
23 characteristics as set forth in the PSR and the addenda; is
24 that correct?

25 MS. VAN MALDEN: That's correct, Your Honor.

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1 MR. CAMPOS: That's correct, Your Honor.

2 THE COURT: All right. We are going to talk about
3 whether the goods were imported for guideline purposes. It
4 does not matter to me for non-guideline purposes. So I will
5 adopt those portions of Sections A and C of the PSR that
6 describe the offense and the offender characteristics as my
7 findings of fact for purposes of this sentencing.

8 Now, with regard to the guidelines, which are, of
9 course, advisory and only one issue for me to consider in
10 determining the appropriate sentence, we have one adjustment
11 that is an issue. Probation has proposed that there should
12 be two points added because these goods were imported. I
13 think, Ms. Van Malden, your point is that she did not do the
14 importation --

15 And Can you remind me, Mr. Campos, where have I
16 come out on this in the other sentences, because I know you
17 are not putting the implication enhancement in?

18 MR. CAMPOS: For the defendants in the prior cases
19 that we had not put -- that have gone to sentencing that
20 have not had -- the Government did not advocate for two
21 points. The Court questioned the Government on that and
22 the Court accepted the Government's statements that for
23 those particular defendants in the past, it was the
24 Government's position that there was insufficient proof that
25 the defendant -- that the Government could prove that those

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1 goods had been imported --

2 THE COURT: Okay.

3 MR. CAMPOS: -- and that the defendants knew that
4 those goods had been imported.

5 THE COURT: All right. I mean, this one seems
6 that these defendants were one more step removed from
7 importation than the wholesale defendants or the container
8 defendants, right?

9 MR. CAMPOS: Indeed, Your Honor.

10 THE COURT: Okay. For that reason, I am going to
11 go along with the parties' guideline estimate as set forth
12 in their plea agreement, and that is --

13 And I am not finding it quickly. Help me out,
14 Mr. Campos.

15 MR. CAMPOS: Oh, Your Honor, the guidelines that
16 the Government had estimated and that the Court is going to
17 rule upon was an offense level of 22 minus the three levels
18 for acceptance of responsibility for a Level 19, with a
19 Criminal History Category 1, with a range of imprisonment of
20 30 to 37 months.

21 THE COURT: Okay.

22 All right. I adopt that as my finding, unless,
23 Ms. Van Malden, you have anything else you want to say about
24 it?

25 MS. VAN MALDEN: No, Your Honor.

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1 THE COURT: Okay. That is my finding on the
2 guideline range.

3 Let me, then, hear from parties as to the
4 application of all of the 3553(a) factors.

5 I will start with you, Ms. Van Malden.

6 MS. VAN MALDEN: Your Honor, I set forth most of
7 my arguments in my letter and I know that you've read it,
8 and so I don't want to reiterate what you have already read.

9 This is a case in which Ms. Gao mailed to -- she
10 had a shipping business and she was given boxes and she knew
11 there were counterfeit goods inside. She didn't have
12 control over the amount or the value of those goods. She
13 was essentially a middle person. She took the goods from
14 them. She shipped them. Some of these goods went COD, just
15 like UPS does COD, FedEx does COD, and the U.S. Postal
16 Service does COD. So that's not so beyond crazy that she
17 would do COD packaging for the shipper.

18 THE COURT: Okay. Then what did she do with the
19 COD?

20 MS. VAN MALDEN: With the --

21 THE COURT: COD, cash on delivery --

22 MS. VAL MALDEN: Oh --

23 THE COURT: -- what did she do with the cash?

24 MS. VAN MALDEN: She gave it back to the shipper.
25 That's what the allegations by the Government are, she

1 didn't keep that money.

2 What the Government refers to as "unabashed
3 greed," Your Honor, was that Ms. Gao and her husband,
4 Mr. Xia, over a four-year period made \$90,000 from the
5 shipping of these goods. Now, if you break that down each
6 year, that means each year they made a whopping \$22,500.
7 And if you split that again between the two of them, right,
8 each of them made about \$11,000. So their unabashed greed
9 resulted in them earning approximately one-third of the
10 minimum wage in New York State.

11 THE COURT: Okay. Well, do you have any idea what
12 the gross revenues were for the legitimate part of the
13 business?

14 MS. VAN MALDEN: There was not a lot, which is why
15 she -- this is one of the reasons why she ended up shipping
16 these types of goods. She didn't do very well in the
17 business. She opened it with all the best of intentions.
18 She was not doing well. She was not bringing money home.
19 Ultimately, she closed it, not because of this case, but I
20 think they closed it before the case began or right around
21 the same time as the case began because they weren't making
22 any money. And it wasn't the type of closing -- it was a
23 corporation. They actually had their accountant put the
24 right paperwork in. This was a legitimate business.
25 Unfortunately, a large portion of the business involved

1 these counterfeit goods.

2 Now, the Government may also point out that there
3 was a one-off where they may have sold some belts or some --
4 I think it was belts that were counterfeit. That was kind
5 of a one-off, but they didn't make a ton of money from that.
6 So essentially what you have is literally a mom-and-pop shop
7 that was shipping goods.

8 Did they import? No. Did they have anything to
9 do with the containers? No. Did they have anything to do
10 with the fraudulent paperwork for the people at the ports?
11 No. They had done small bits, as kind of the people that
12 shipped. They didn't earn money on either end. What they
13 got was money for their shipping. There's been no evidence
14 that they charged any more or received any more from these
15 packages versus other packages. So unabashed greed is
16 really not the reason for this crime. This was people
17 trying to have a business and then getting this opportunity,
18 granted not a legal opportunity, to, I guess, earn some
19 money, put some food on the table for their kids.

20 So they knew that the items were counterfeit.
21 They knew that it wasn't legal to have counterfeit goods,
22 had no idea they were looking at ten years in jail for it,
23 at least not that type of thing. That's not the kind of
24 people these people are.

25 THE COURT: You know, I am going to ask Mr. Xia's

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1 lawyer about this as well, but it does seem to me that they
2 were living higher than the way you are describing it. You
3 know, they seemed to have a nice house in Syosset, and the
4 lifestyle that is not -- you know, it's not superluxurious,
5 but it's also not hand-to-mouth.

6 MS. VAN MALDEN: Well, it's a lifestyle, which --
7 there's more than just their immediate family with them.
8 And they also receive -- they were living with Mr. Xia's
9 parents, so it was a community. It's more of a community
10 effort. And they also had some -- their credit card
11 expenses. So this is not like -- it's not like they were
12 just -- it's a community effort; and when you put everything
13 together, you can live a little better than you can on your
14 own. So that's how I would address that particular concern
15 for the Court.

16 The other thing that brings Ms. Gao specifically
17 out of the heartland cases is her health issues, and I've
18 been here at least once before asking if Ms. Gao can go to
19 China to get treatment for her thyroid cancer. And she was
20 able to get the treatment that she needed here, but after
21 the PSR was written, she had to go back for another surgery
22 right now, and she's had two of these iodine 131 treatments.
23 So in January, she needs to go back to see if they're
24 working. And I put a paragraph in here about that cancer
25 treatments in our prison system is not very good. And I

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1 know, Your Honor, might say, Well okay, she'll go in after.
2 But it's an ongoing thing. And then they do have two
3 children. They need to be cared for.

4 Mrs. Xia, Mr. Xia's mother, who recently came out
5 of the hospital, the reason she's here today is they didn't
6 have anybody to keep an eye on her while they were here
7 today.

8 THE COURT: What happened to the community?

9 MS. VAN MALDEN: The community over time has just
10 dissipated, and the COVID has made people stay away. For
11 example, their sister, Mr. Xia's sister who owns
12 99 Cent Store, is in contact with the public every day.
13 Ms. Gao and her mother-in-law, they're high-risk people.
14 You don't want a person who is going out in the world every
15 day coming home and spreading COVID-19.

16 THE COURT: Well, I think Probation had some
17 concerns, or at least I inferred there were such concerns,
18 about the fact that Ms. Gao is a home attendant for a
19 relative and getting paid, but I do not know how she is
20 getting paid?

21 MS. VAN MALDEN: I can tell you I have some
22 experience with that personally, if you're interested.

23 THE COURT: Yes.

24 MS. VAL MALDEN: What New York State is doing with
25 Medicaid patients that are being treated at home, because

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1 New York believes that it's better to keep people at home --
2 it's cheaper and safer to keep them at home than put them in
3 a facility. So what they do is they have set this up
4 formally, members are permitted to be the home-health-care
5 attendant and to be paid the fee, whatever it is, \$8, or
6 minimum wage, \$15 an hour, that they would be paying to an
7 outside nurse. And it's a program -- it's a legitimate
8 program in New York State. And if I wasn't busy being a
9 lawyer, I probably would have done that for my mom before
10 she passed. But, I mean, it is definitely something that my
11 brother and I looked into, and I know it is a legitimate
12 thing. So that is a thing that New York State has started,
13 and it's actually quite popular.

14 So if Probation wants to a look, it's under
15 City of New York State under Medicaid and health care and
16 home-health care, and that's -- it's a thing. It really is.
17 So that's not crazy. That does happen.

18 But she has these health issues. She's a great
19 mom. She's taking care of her mother-in-law. And when we
20 look at -- and I know I gave you a bunch of cases. Now,
21 some of those will be -- were pre-advisory guidelines, I
22 think.

23 THE COURT: Okay.

24 MS. VAN MALDEN: And that's --

25 THE COURT: No, I understand. But really, I could

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1 come up with a list of cases that are different than your
2 list and suggest something very different, right?

3 MS. VAN MALDEN: Of course.

4 THE COURT: The individual cases in terms of
5 disparity elimination are not all that helpful, I generally
6 find.

7 MS. VAN MALDEN: Well, what we've looked to are
8 the sentences that you have already given out in this
9 case --

10 THE COURT: Yes.

11 MS. VAN MALDEN: -- and in this case, there were
12 two -- there was a probation and a time served. And I would
13 say that compared to even the two individuals who received
14 probation who were on the importation end, on the container
15 end, that their act in this very big conspiracy were less
16 than that, and as a result, they would deserve similar
17 sentencing because they were not involved in the importation
18 and they were not involved in the containers and they didn't
19 go to China to order the goods. They simply took the goods,
20 put them in a -- they didn't even put them in the box. They
21 came in a box and they sent them to be shipped.

22 THE COURT: But on the other hand, the amount of
23 money involved for these two defendants is higher than it
24 was for any of the others. And the others were -- I mean, I
25 think one of them had 400,000, one of them had 150, one of

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1 them had 250. I have got 550 for each of these two
2 defendants, plus I have got higher gains by these two
3 defendants, net amount gains. You know, it's 90,000 as
4 compared to the ones I gave probation and time served to,
5 which were about half of that, or less than half of that,
6 so...

7 Well, I tend to agree with you, it's about the
8 same. There may be some more culpable conduct on the two
9 that I have sentenced to probation and time served. But I
10 think it comes out in a wash, pretty much.

11 MS. VAN MALDEN: We can't argue with you on that,
12 Your Honor.

13 THE COURT: Yes.

14 MS. VAL MALDEN: The only thing that I can point
15 out about the higher amounts is that they didn't really have
16 any control over the value of what was shipped.

17 THE COURT: Yeah. I mean, it's kind of like a
18 courier case that way, right? You know, they didn't really
19 care what was in the trailer because they were getting paid
20 regardless. But it is a relevant factor in determining the
21 amount of damage to the victims that stood to be done,
22 right?

23 MS. VAN MALDEN: Certainly. And you can -- they
24 can pay restitution to their victims, which there is a
25 restitution order, I'm sure, that will be part of their

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1 sentence. So I would suggest that that would be a more
2 appropriate way to address that particular issue.

3 THE COURT: Okay.

4 MS. VAN MALDEN: So, Your Honor, I'm not going to
5 take up too much more of your time. I think that we've
6 covered everything.

7 So unless you have any further concerns or
8 questions, I'm just going to ask for probation. Thank you,
9 Your Honor.

10 THE COURT: Thank you, Ms. Van Malden.

11 Ms. Gao, is there anything that you would like to
12 say? I have read your letter, of course, but I am happy to
13 hear from you further if you would like me to.

14 DEFENDANT GAO: I want to apologize to Your Honor
15 about this case, because right now my children are still
16 very young, and also my mother-in-law is facing serious
17 health issues. I hope that you grant me an opportunity so
18 that I could still take care of them, and then also I would
19 be able to be in a position to take good care of my children
20 as well.

21 I know that I'm wrong about what I've done. And
22 also I want my children never to commit the same crime of
23 going through the same path as I did right now.

24 THE COURT: Okay. Thank you, Ms. Gao.

25 DEFENDANT GAO: Thank you.

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1 THE COURT: All right. I'll hear from the
2 Government.

3 MR. CAMPOS: Thank you, Your Honor.

4 Your Honor, the Government has put its reasons for
5 in the letter. I would just note that while this defendant,
6 obviously, did not smuggle the goods into the country, but
7 the defendant is also not just a street-level seller.
8 Instead, she and her husband had a business model for
9 shipping almost exclusively counterfeit goods throughout the
10 country. That was their model. The goods were not isolated
11 here in New York. You know, they became like the FedEx for
12 counterfeit-good shippers. And I think that is a unique
13 category of individuals that are in an important link in
14 this -- you know, the whole chain of distribution. So
15 consequently without them, there would need to be somebody
16 else.

17 And why them? They knew what they were shipping.
18 They didn't stop that. They did a couple of interesting
19 things with the money orders and all of that, but it -- to
20 hide the identity of the people shipping. So to say that
21 they were kind of like a street seller, that's not quite
22 right. I mean, we're not suggesting that they were
23 importers, but they were an important cog.

24 And the other thing I would just note, Your Honor.
25 I think Counsel talked about the amount of money. This

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1 defendant and her husband who ran the business, each agreed
2 to a \$90,000 forfeiture amount. So in terms of the money, I
3 think that may be slightly off. But, Your Honor, the
4 Government --

5 THE COURT: They each got 90,000 out of this or
6 because they are jointly liable for the 90,000, that they as
7 a couple got out of it?

8 MR. CAMPOS: No, because we estimated that they
9 each got 90,000.

10 THE COURT: Okay. Anything further?

11 MR. CAMPOS: No, Your Honor.

12 THE COURT: Okay.

13 All right. I just want to ask Probation a couple
14 of questions. The admission on the sentencing
15 recommendation and the memo that I got in the Xia case
16 helped me deal with this case from Probation was helpful.

17 But I am wondering if you could give me any more
18 insight as to any concerns Probation has about
19 the undisclosed support mechanisms for this family, whether
20 financial or personal?

21 MS. MALKO: Well, in this case --

22 THE COURT: You can sit down. That's fine.

23 MS. MALKO: I'm sorry.

24 I guess specifically to do with more of the
25 restitution order and making sure that that's put out

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1 appropriately, and I think the appropriate 10 percent --
2 once restitution is starting to get out, that it is paid at
3 the appropriate 10 percent monthly, we would need a personal
4 financial statement. We did received one from Ms. Gao, but
5 we did not receive one from her spouse.

6 But that was the only concern, unless Your Honor
7 has --

8 THE COURT: Well, you know, you are suggesting, I
9 think, that there are sufficient resources here so that for
10 at least a short incarceratory sentence, the children and
11 mother would be taken care of as long as I do not put
12 husband and wife into custody at the same time; is that a
13 fair conclusion from what I'm reading?

14 MS. MALKO: Essentially, yes, because they are
15 both working. Because the husband works for his business,
16 his family business, and he would likely not be losing that
17 job once he is, you know, released after having been
18 incarcerated. And the wife is essentially working with her
19 mother-in-law, you know, taking care of her at the house. I
20 think that that would be it.

21 But we did say that it is difficult with all the
22 finances that we have received to make a determination if
23 they would be able to be cared for in terms of either to pay
24 for any kind of extra child care, such a live-in nanny or a
25 babysitter. It's obviously difficult for us to make a

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1 decision based on the finances that we have received thus
2 far.

3 THE COURT: Okay.

4 All right. Ms. Van Malden, if you want to say
5 anything to that, I will give you a chance.

6 MS. VAN MALDEN: I think I have covered
7 everything, Your Honor.

8 THE COURT: All right. I have considered all the
9 factors under *18 U.S.C., Section 3553(a)*, including the
10 advisory guidelines. A guideline sentence here I think is
11 not necessary to accomplish the goals of sentencing, but I
12 do think a short incarceratory sentence is appropriate.

13 I am troubled by someone in this position getting
14 as much as \$90,000 for shipping these -- carrying these
15 counterfeit goods. And I don't think that that is something
16 where I can just say no custody is appropriate. I am not
17 all that worried about Ms. Gao repeating the conduct. I
18 think she is likely not to repeat it. But I do think, you
19 know, and I have said this in the other cases as well --
20 some of the other cases, a message needs to be sent out
21 that, you know, this kind of almost epidemic criminal
22 activity, very pervasive criminal activity just cannot be
23 done because there are too many companies who have workers
24 who get injured by doing this kind of thing. So I think the
25 crime, you know, it's a federal crime for a reason. This

1 could be punished civilly only if that is what Congress
2 wanted to do, but it did not. So I do not think a guideline
3 sentence is necessary. I do think that some custody is
4 appropriate.

5 I am, therefore, going to impose a sentence of six
6 months' custody; restitution in the amount of \$275,000
7 jointly and severally with the co-defendants. That is due
8 immediately, but payable at a rate of \$25 per quarter while
9 in custody and at a rate of 10 percent gross monthly income
10 while on supervised release. She has also got to comply
11 with the order of forfeiture that I have signed.

12 I am also going to impose one year of supervised
13 release which has compliance with forfeiture and
14 restitution; also full financial disclosure, including
15 comingled income, expenses, assets and liabilities, and tax
16 returns. Other than the accounts that are set forth in the
17 presentence report, she is prohibited from opening or
18 maintaining any other accounts without approval of
19 Probation. She has got to fully cooperate with the
20 probation officer in investigating any financial dealings
21 she has, including upon request providing truthful monthly
22 statements of her income and expenses. She has also got to
23 sign any necessary documents to make that easier for
24 Probation.

25 Now, I also understand that she is a green

1 cardholder. In the event that she is removed from the
2 country, she may not enter illegally. She may not re-enter
3 illegally, and she has to comply with all of the
4 instructions of the immigration authorities.

5 I am not going to impose a fine, because I do not
6 think she would be able to afford it considering her
7 restitution obligation. I will impose the mandatory \$100
8 special assessment.

9 Now, in terms of surrender date, what I would like
10 to do is this, and I am open to suggestions, Ms. Van Malden:
11 Particularly because of her medical treatment, I would like
12 to delay her surrender date to a date 60 days after her
13 husband is released from custody if I sentence him to
14 custody, or 60 days after today if I don't sentence him to
15 custody. That leaves us with an open-surrender date,
16 because I have not sentenced her husband yet. If you
17 consent, what I will do is simply say I will enter a
18 surrender date in the judgment that says what I have just
19 said, you know, 60 days after the husband is no longer in
20 custody.

21 If you do not consent, then stand by. I will
22 sentence the husband. I will re-call this case, and then I
23 will, again, impose that same condition but with a definite
24 date at that point. So I don't really see a reason to
25 reconvene this for that purpose, but it is your choice as to

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1 what you want to do.

2 MS. VAN MALDEN: The only thing that I would ask
3 is if it's 60 days from today, then if you could make it 90
4 days or make it an even larger surrender date because of her
5 treatment in January?

6 THE COURT: Yes, that is fine.

7 I should also say in terms of her treatment, I am
8 elastic on the surrender date. You know, you can come to me
9 in March, I will give you until March. That's fine. And if
10 she is still getting treatment, I might delay it further.
11 Okay? Because I do want her to have her treatment. I think
12 that is important. I don't want her to start her custody
13 until she gets that. Depending what happens with her
14 husband, that may not be a factor. Okay? It may be all
15 done, depending on what I do with him.

16 But certainly I will set a March 1st -- well,
17 let's say I set -- well, I don't want to set March 1st
18 because if I sentence him to more time, I have them in at
19 the same time.

20 MS. VAL MALDEN: Yes.

21 THE COURT: So unless you want me to reconvene, I
22 will just tell you it will be no earlier than the end of
23 March.

24 MS. VAL MALDEN: Okay.

25 THE COURT: Okay?

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1 MS. VAL MALDEN: All right. Thank you,
2 Your Honor.

3 THE COURT: And as late as 60 days after her
4 husband is released into custody, you know, whichever is
5 longer.

6 MS. VAN MALDEN: That sounds good.

7 THE COURT: Okay.

8 MS. VAL MALDEN: All right, Your Honor. That's
9 great.

10 THE COURT: Well, that is as great as possible
11 when somebody is being sentenced --

12 MS. VAL MALDEN: Oh, right.

13 THE COURT: -- to federal prison.

14 MS. VAN MALDEN: Yes, Your Honor, that is what I
15 meant to say.

16 THE COURT: All right. And then we have open
17 counts, Mr. Campos?

18 MR. CAMPOS: We do, Your Honor.

19 THE COURT: Okay.

20 MR. CAMPOS: And the Government moves to dismiss
21 those open counts.

22 THE COURT: Those and the underlying indictment
23 are dismissed.

24 All right. So, Ms. Van Malden, is there anything
25 further before I advise Ms. Gao of her appellate rights at

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1 this time?

2 MS. VAN MALDEN: No, not from the defendant,
3 Your Honor.

4 THE COURT: Thank you.

5 Is there anything further, Mr. Campos, before I
6 advise her of her appellate rights?

7 MR. CAMPOS: No, Your Honor, not from the
8 Government.

9 THE COURT: Thank you.

10 All right. Ms. Gao, by virtue of your plea
11 agreement, you have waived your right to appeal your
12 conviction and sentence. However, if you think there was
13 something fundamentally wrong with either your conviction or
14 your sentence, you can attempt to appeal by filing what is
15 called a Notice of Appeal within 14 days. Ms. Van Malden
16 will do that for you if you ask her to. If you certify to
17 the Clerk of the Court that you cannot afford a lawyer, the
18 Clerk will do it for you. Or you can get the one-page form
19 yourself and do it. But it remains your responsibility no
20 matter how you delegate it to make sure that that notice is
21 filed within 14 days to get the appeal process going.
22 Otherwise, you will have permanently waived any right to
23 appeal that you might have.

24 All right. And did I impose the special
25 assessment earlier?

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25

1 MR. CAMPOS: You did, Your Honor.

2 THE COURT: Okay. Thank you.

3 Is there anything further, Ms. Van Malden? It
4 looks like she may have a question.

5 Do you want to check with her?

6 MS. VAL MALDEN: Sure.

7 THE COURT: Go ahead.

8 MS. VAL MALDEN: Thank you, Your Honor.

9 (Pause in proceedings.)

10 MS. VAL MALDEN: (Indicating.)

11 THE COURT: Do you have anything further,
12 Ms. Van Malden?

13 MS. VAN MALDEN: We have nothing further,
14 Your Honor.

15 THE COURT: All right.

16 MS. VAL MALDEN: Thank you, Your Honor.

17 THE COURT: Okay.

18 MR. CAMPOS: Thank you, Your Honor.

19 THE COURT: Thank you very much.

20 We are adjourned.

21 (Matter concluded.)

22 --oo0oo--

23 *I (we) certify that the foregoing is a correct transcript*
24 *from the record of proceedings in the above-entitled matter.*

25 /s/ David R. Roy
DAVID R. ROY

January 7, 2021
Date